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MOTION UNDER 28 U.S.C. SECTION 2255

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF ILLINOIS

MICHAEL W. DOBBINS
CLERK, U.S. DISTRICT COURT

MOTION TO VACATE, SET ASIDE, OR CORRECT SENTENCE BY
A PERSON IN FEDERAL CUSTODY

UNITED STATES

07CV6321
JUDGE ANDERSEN
MAG. JUDGE KEYS

v.

/) CASE NO. _____
) (To be supplied by
) clerk)

ANGEL FIGUEROA,

BOP #: 14503-424

(Full name and prison number of
movant)

IF THE MOVANT HAS A SENTENCE TO BE SERVED IN THE FUTURE
UNDER A FEDERAL JUDGMENT WHICH HE WISHES TO ATTACK, HE
SHOULD FILE A MOTION IN THE FEDERAL COURT WHICH ENTERED THE
JUDGMENT.

1. Place of detention, or if on parole, date of parole release

Elkton Federal Correctional Institution, P. O. Box 10,
Lisbon, Ohio, 44432

2. Name and location of court which sentence was imposed and
name of judge who imposed the sentence which is now under
attack.

U.S. District Court, Northern District of Illinois, Chicago

Division

3. Date of judgment of conviction:

July 7, 2006

4. Case number: 1:02-cr-416-3

5. Length of sentence: 240 months

6. Nature of offense involved (all counts): F. Conspiracy to Distribute Narcotics 21:846

7. What was your plea? (check one)

(A) Not guilty (X)

(B) Guilty ()

(C) Nolo Contendere ()

8. Kind of trial: (check one)

(A) Jury (X)

(B) Judge only ()

9. Did you testify at the trial?

Yes () No (X)

10. Did you appeal from the judgment of conviction?

Yes (X) No ()

11. If you did appeal, answer the following:

(A) Name of court Seventh Circuit Court of Appeals

(B) Result Affirmed

(C) Date of result May 11, 2007

12. Other than a direct appeal from the judgment of conviction and sentence, have you previously filed any petitions, applications or motions with respect to this judgment in any federal court?

Yes () No (X)

13. If your answer to (12) was **"YES,"** give the following information:

(A) (1) Name of court_____

(2) Nature of proceeding_____

(3) Grounds Raised_____

(4) Did you receive an evidentiary hearing on your petition, application or motion?

Yes () No ()

(5) Result_____

(6) Date of result_____

(B) As to any second petition, application or motion, give the same information:

(1) Name of the court_____

(2) Nature of proceeding_____

(3) Grounds Raised_____

(4) Did you receive an evidentiary hearing on your petition, application or motion?

Yes () No ()

(5) Result_____

(6) Date of result_____

(C) As to any third petition, application or motion, give the same information:

(1) Name of the court_____

(2) Nature of proceeding_____

(3) Grounds Raised_____

(4) Did you receive an evidentiary hearing on your petition, application or motion?
Yes () No ()

(5) Result _____

(6) Date of result _____

(D) Did you appeal, to an appellate federal court having jurisdiction, the result of action taken on any petition, application or motion?

(1) First petition, etc. Yes () No ()

(2) Second petition, etc. Yes () No ()

(3) Third petition, etc. Yes () No ()

(E) If you did not appeal from the adverse action on any petition, application or motion, explain briefly why you did not:

14. State concisely every ground on which you claim that you are being held unlawfully. Summarize briefly the facts supporting each ground. If necessary, you may attach pages stating additional grounds and facts supporting same.

CAUTION: IF YOU FAIL TO SET FORTH ALL GROUNDS IN THIS MOTION, YOU MAY BE BARRED FROM PRESENTING ADDITIONAL GROUNDS AT A LATER DATE.

A. Ground one Figueroa's Judgment and Sentence Must be Vacated Because His Speedy Trial Right to a Timely Indictment was Violated

Supporting FACTS (tell your story briefly without citing cases or law:

See Figueroa's Supporting Memorandum of Law and Statement of Facts being filed concurrently herewith.

- B. Ground two Figueroa is Entitled to a De Novo Resentencing and Hearing on His Motion to Dismiss for Speedy Indictment Purposes Because the District Court Failed to Renew It's Inquiry Whether Figueroa Desired Counsel at His Sentencing Proceeding.

Supporting FACTS (tell your story briefly without citing cases or law):

See Figueroa's Supporting Memorandum of Law and Statement of Facts being filed concurrently herewith.

- C. Ground three Figueroa is Entitled to a De Novo Appeal Because Figueroa was Denied His Right to Counsel on Appeal.

Supporting FACTS (tell your story briefly without citing cases or law):

See Figueroa's Supporting Memorandum of Law and Statement of Facts being filed concurrently herewith.

D. Ground four_____

Supporting FACTS (tell your story briefly without citing cases or law:

15. If any of the grounds listed in 14 A, B, C, and D were not previously presented, state briefly what grounds were not so presented, and give your reasons for not presenting them:

None - See Supporting Memorandum of Law

16. Do you have any petition or appeal now pending in any court as to the judgment under attack? Yes () No (X)

(A) If "**YES**," state the name of the court and the nature of the proceeding:_____

17. Give the name and address, if known, of each attorney who represented you in the following stages of the judgment attacked herein:

(A) At preliminary hearing: Jennifer S. Vollen, 55 East Monroe Street, Suite 2800, Chicago, IL 60603

(B) At arraignment and plea: Catherine D. O'Daniel, 833 West Jackson, Suite 200, Chicago, IL 60607

(C) At trial: Nathan Diamond Falk, 820 West Jackson Blvd.,
Suite 310, Chicago, IL 60607

After trial but before sentencing: Andrea E. Gambino,
53 West Jackson Blvd., Suite 926, Chicago, IL 60604 &
Michael Leonard, 123 North Wacker Drive, Suite 1800,
Chicago, IL 60606

(D) At sentencing: None

(E) On appeal: None

(F) In any post-conviction proceeding: William Mallory
Kent, 1932 Perry Place, Jacksonville, FL 32207

(G) On appeal from any adverse ruling in a post-conviction
proceeding_____

18. Were you sentenced on more than one count of an indictment,
or more than one indictment, in the same court and at
approximately the same time? Yes () No (X)

19. Do you have any future sentence to serve after you complete
the sentence imposed by the judgment under attack?
Yes () No (X)

(A) If so, give the name and location of the court which
imposed the sentence to be served in the future:_____

(B) And give the date and length of sentence to be served
in the future:_____

WHEREFORE, movant prays that the Court grant him all relief to which he may be entitled in this proceeding.

Walter M. Kent

Signature of attorney (if any)

Ally, at Rep.

Signature of Movant

I declare under penalty of perjury that the foregoing is true and correct.

Executed on 10/26 2007

(date)

Ally, at Rep.

Signature of Movant